IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2418 OF 2006

Sheikh Wahid Sheikh Tamiz ... Petitioner

Vs.

The State of Maharashtra ... Respondent

Mr. Satish More i/b. Naveen Chomal for petitioner.

Mr. S.V.More, APP, for State.

CORAM: S.K.SHAH,J.

DATE : 19th December, 2006.

P.C.

1. This Petition is filed against the order passed by the learned Additional Sessions Judge in Criminal Misc. Application No.1156 of 2006, whereby he rejected the application requiring the cross-case pending in the Magistrate Cour to be transferred to the Sessions Court for being tried by the same Judge before whom the Sessions Case is pending.

2. The learned Counsel for the petitioner submits that the petitioner's case i.e. Sessions case No.169 of 2006 and the C.C. No.1910/PW/2005 pending in the 11th M.M. Court, Kurla, are arising out of the same incident and they are cross-cases.

3. In view of this factual matrix, it is well settled that such cross-cases arising out of the same incient are required to be tried by the same Judge simultaneously and therefore, the case pending before the Magistrate needs to be transferred to the Sessions Court for being tried by the same Judge.

4. The Writ Petition is, therefore, allowed. The order passed by the learned Sessions Judge, dated 4.8.2006 in Criminal Misc. Application No.1156 of 2006 is hereby set aside. The Criminal Case No.1910/PW/2005 pending on the file of 11th M.M. Court, Kurla, Mumbai, shall be transferred to the Court of Additional Sessions Judge, Sewree, Mumbai, where the Sessions Case No.169/2006 is pending for trial. Both the cases shall be tried simultaneously. Writ Petition is accordingly made absolute and disposed of.

(S.K.SHAH,J.)